

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20050666

1. ACTION REQUESTED/PURPOSE: Authorize the Division of County Lands to make a binding offer to property owner in the amount of \$355,000 for Parcel 105, Estero Parkway Extension, Project No. 5021, pursuant to the Purchase Agreement; authorize the Division of County Lands to handle all documentation necessary to complete transaction.

The Board must authorize the making of a binding offer to a property owner prior to initiation of condemnation proceedings.

2. WHAT ACTION ACCOMPLISHES: Makes binding offer to property owner.

3. MANAGEMENT RECOMMENDATION: Management recommends Board approve the Action Requested.

4. Departmental Category: 6 <i>C6K</i>		5. Meeting Date: <i>05-31-2005</i>	
6. Agenda: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Administrative <input type="checkbox"/> Appeals <input type="checkbox"/> Public <input type="checkbox"/> Walk-On		7. Requirement/Purpose: (specify) <input checked="" type="checkbox"/> Statute <i>73 & 125</i> <input type="checkbox"/> Ordinance <input type="checkbox"/> Admin. Code <input type="checkbox"/> Other	
		8. Request Initiated: Commissioner _____ Department <i>Independent</i> Division <i>County Lands TLM</i> By: <i>Karen L.W. Forsyth, Director</i> <i>KWF</i>	

9. Background:
Negotiated for: Department of Transportation
Interest to Acquire: Fee interest in 1.043 acres
Property Details:
Owner: Miromar Lakes, L.L.C., A Florida Limited Liability Company
Purchase Details:
 In order to expedite acquisition efforts, staff recommends Board make a binding offer in the amount of \$355,000 (appraised value), and commence Eminent Domain procedures.
Appraisal Information:
Company: Coastal Engineering Consultants, Inc., by William H. Reeve, MAI, SRA
Appraised Value: \$355,000
Staff Recommendation: Staff recommends the Board approve the Action Requested.
Account: 20502130700.506110
Attachments: Agreement for Purchase and Sale of Real Estate, In-House Title Search, Appraisal Certificate of Value, and Sales History

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services	County Manager/P.W. Director
<i>K. Forsyth</i>			<i>SAO</i>	<i>[Signature]</i>	<i>5/19</i>	<i>[Signature]</i>
					<i>Analyst</i>	<i>Mgr.</i>
					<i>5/19/05</i>	<i>5-19-05</i>

11. Commission Action:
 Approved
 Deferred
 Denied
 Other

Rec. by CoAtty <i>[Signature]</i>	RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
Date: <i>5/19/05</i>	<i>5-18-05</i>
Time: <i>1:30</i>	<i>4:39</i>
Forwarded To: <i>[Signature]</i>	COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>

This document prepared by
Lee County Division of County Lands
Project: Estero Parkway Extension, #5021
Parcel: 105
Part of STRAP No.: 23-46-25-00-00001.1040

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY
AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE
IN LIEU OF CONDEMNATION PROCEEDINGS

THIS AGREEMENT for purchase and sale of real property is made this _____ day of _____, 200__, by and between Miromar Lakes, L.L.C., a Florida Limited Liability Company, hereinafter referred to as SELLER, whose address is 10801 Corkscrew Road, Suite 305, Estero, Florida 33928, and Lee County, a political subdivision of the State of Florida, hereinafter referred to as BUYER.

WITNESSETH:

- 1. AGREEMENT TO PURCHASE AND TO SELL:** SELLER agrees to sell and BUYER agrees to purchase, subject to the terms and conditions set forth below, a parcel of land consisting of 1.043 acres more or less, and more particularly described in "Exhibit A" attached hereto and made a part hereof, hereinafter called "the Property." This property is being acquired for the Estero Parkway Extension Project, hereinafter called "the Project", with the SELLER'S understanding that the property, if not voluntarily sold, would have been condemned by BUYER through the exercise of its eminent domain powers.
- 2. PURCHASE PRICE AND TIME OF PAYMENT:** The total purchase price ("Purchase Price") will be Three Hundred Fifty-Five Thousand and No/100 (\$355,000), payable at closing by County warrant. The Purchase Price is mutually agreeable to both the SELLER and BUYER and represents the voluntary sale and purchase of the property in lieu of BUYER'S condemnation.

3. **EVIDENCE OF TITLE:** BUYER will obtain at BUYER'S expense an American Land Title Association Form B Title Commitment and provide title insurance Owner's Policy in the amount of the purchase price, from a title company acceptable to BUYER. The commitment will be accompanied by one copy of all documents that constitute exceptions to the title commitment. The commitment will also show title to be good and marketable with legal access, subject only to real estate taxes for the current year, zoning and use restrictions imposed by governmental authority, and restrictions and easements common to the area.

4. **CONDITION OF PROPERTY; RISK OF LOSS:** BUYER has inspected the Property and, except as is otherwise provided herein, accepts the Property in the condition inspected. Any loss and/or damage to the Property occurring between the date of this offer and the date of closing or date of possession by BUYER; whichever occurs first, will be at SELLER'S sole risk and expense. However, BUYER may accept the damaged property and deduct from the purchase price any expenses required to repair the damage, or BUYER may cancel this Agreement without obligation.

5. **SELLER'S INSTRUMENTS AND EXPENSES:** SELLER will pay for and provide:

- (a) A statutory warranty deed, and an affidavit regarding liens, possession, and withholding under FIRPTA in a form sufficient to allow "gap" coverage by title insurance;
- (b) utility services up to, but not including the date of closing;
- (c) taxes or assessments for which a bill has been rendered on or before the date of closing;
- (d) payment of partial release of mortgage fees, if any;
- (e) SELLER'S attorney fees, if any.

6. **BUYER'S INSTRUMENTS AND EXPENSES:** BUYER will pay for:

- (a) Recording fee for deed;
- (b) survey, (if desired by BUYER).

7. **TAXES:** SELLER will be charged for Real Estate taxes and personal property taxes (if applicable) up to, but not including the date of closing. This voluntary sale and purchase is considered by Florida law to be exempt from the payment of Documentary Stamp Taxes because this transaction was made under the threat of an eminent domain proceeding by the BUYER.

8. **DEFECTS IN TITLE AND LEGAL ACCESS:** Prior to closing, BUYER will have a reasonable time to examine the title and documents establishing legal access to the property. If *title or legal access is found to be defective*, BUYER will notify SELLER in writing of the defects and SELLER will make a prompt and diligent effort to correct such defects. If SELLER fails to make corrections within 60 days after notice, BUYER may elect to accept the Property in its existing condition with an appropriate reduction to the purchase price, or may terminate this Agreement without obligation.

9. **SURVEY:** BUYER may order the Property surveyed at BUYER'S expense. SELLER agrees to provide access to the Property for such survey to be performed. If the survey shows a discrepancy in the size or dimensions of the Property, or shows encroachments onto the Property or that improvements located on the Property encroach onto adjacent lands, or if the survey identifies violations of recorded covenants and/or covenants of this Agreement, upon notice to the SELLER, the BUYER may elect to treat such discrepancies, violations and/or encroachments as a title defect.

10. **ENVIRONMENTAL AUDIT:** BUYER may perform or have performed, at BUYER'S expense, an environmental audit of the Property. If the audit identifies environmental problems unacceptable to the BUYER, BUYER may elect to accept the Property in its existing condition with an appropriate abatement to the purchase price or BUYER may terminate this Agreement without obligation.

11. **ABSENCE OF ENVIRONMENTAL LIABILITIES:** The SELLER warrants and represents that the Property is free from hazardous materials and does not constitute an environmental hazard under any federal, state or local law or regulation. No hazardous, toxic or polluting substances have been released or disposed of on the Property in violation of any applicable law or regulation. The SELLER further warrants that there is no evidence that hazardous, toxic or polluting substances are contained on or emitting from the property in violation of applicable law or regulation. There are no surface impoundments, waste piles, land fills, injection wells, underground storage areas, or other man-made facilities that have or may have accommodated hazardous materials. There is no proceeding or inquiry by any governmental agency with respect to production, disposal or storage on the property of any hazardous materials, or of any activity that could have produced hazardous materials or toxic effects on humans, flora or fauna. There are no buried, partially buried, or above-ground tanks, storage vessels, drums or containers located on the Property. There is no evidence of release of hazardous materials onto or into the Property.

The SELLER also warrants that there have been no requests from any governmental authority or other party for information, notices of claim, demand letters or other notification that there is any potential for responsibility with respect to any investigation or clean-up of hazardous substance releases on the property. All warranties described herein will survive the closing of this transaction.

In the event the SELLER breaches the warranties as to environmental liability, SELLER agrees to indemnify and hold the BUYER harmless from all fines, penalties, assessments, costs and reasonable attorneys' fees resulting from contamination and remediation of the property.

12. **TIME AND BINDING AGREEMENT:** Time is of the essence for closing this transaction. The BUYER'S written acceptance of this offer will constitute an Agreement for the purchase and sale of the Property and will bind the parties, their successors and assigns. In the event the BUYER abandons this project after execution of this Agreement, but before closing, BUYER may terminate this Agreement without obligation.

13. **DATE AND LOCATION OF CLOSING:** The closing of this transaction will be held at the office of the insuring title company on or before 60 days from the date this Agreement is made. The time and location of closing may be changed by mutual agreement of the parties.

14. **ATTORNEYS' FEES:** The prevailing party in any litigation concerning this Agreement will be entitled to recover reasonable attorneys' fees and costs.

15. **REAL ESTATE BROKERS:** SELLER hereby agrees to indemnify and hold the BUYER harmless from and against any claims by a real estate broker claiming by or through SELLER.

16. **POSSESSION:** SELLER warrants that there are no parties in possession other than SELLER unless otherwise stated herein. SELLER agrees to deliver possession of Property to BUYER at time of closing unless otherwise stated herein.

17. **TYPEWRITTEN/HANDWRITTEN PROVISIONS:** Typewritten and handwritten provisions inserted herein or attached hereto as addenda, and initialed by all parties, will control all printed provisions in conflict therewith.

18. **SPECIAL CONDITIONS:** Any and all special conditions will be attached to this Agreement and signed by all parties to this Agreement.

SELLER:

Miromar Lakes, L.L.C., a
Florida Limited Liability Company

By: Miromar Development Corporation, a
A Florida Corporation, as Managing Member

WITNESSES:

BY: _____
(DATE)

Name/Title

CHARLIE GREEN, CLERK

BY: _____
DEPUTY CLERK (DATE)

BUYER:

LEE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
CHAIRMAN OR VICE CHAIRMAN

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

COUNTY ATTORNEY (DATE)

EXHIBIT "A"

A parcel of land being a portion of that certain parcel described as "Area D" per Official Records Book 3380, Page 793 of the Public Records of Lee County, Florida, and lying in the Southeast 1/4 of Section 23, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

COMMENCE at the Southeast corner of Section 23, Township 46 South, Range 25 East, Lee County, Florida; thence along the South line of the Southeast 1/4 of said Section 23, N 89°44'35" W for 651.52 feet to a point on the existing Westerly right of way line of Ben Hill Griffin Parkway per Official Records Book 2737, Page 1041 of the Public Records of Lee County, Florida (a 150.00 foot wide right of way) and the POINT OF BEGINNING; thence continue along the South line of the Southeast 1/4 of said Section 23, N 89°44'35" W for 1261.71 feet to a point of intersection with the East line of a parcel known as "Mitigation Area I" per Official Records Book 3550, Page 1204 of the Public Records of Lee County, Florida; thence N 12°28'22" E along the last described East line for 76.74 feet; thence S 89°44'35" E for 1.19 feet to the beginning of a non-tangent curve concave Southerly; thence Easterly along the arc of said curve, having a radius of 5525.00 feet, through a central angle of 06°49'15", for 657.73 feet, and a chord bearing and distance of N 86°19'54" E, for 657.34 feet to the end of, said curve; thence S 89°44'35" E for 586.21 feet to a point of intersection with the aforementioned existing Westerly right of way line of Ben Hill Griffin Parkway; thence along said existing right of way line, S 00°49'48" E for 120.02 feet to the Point of Beginning,

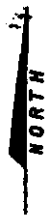
LESS the Southerly 75.00 feet thereof (which contains 2.157 acres, more or less).

The balance of said parcel (excluding the Southerly 75.00 feet thereof) contains 1.043 acres, more or less.

SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

This sketch is NOT a survey.

SEE SHEET 2 FOR
LEGAL DESCRIPTION



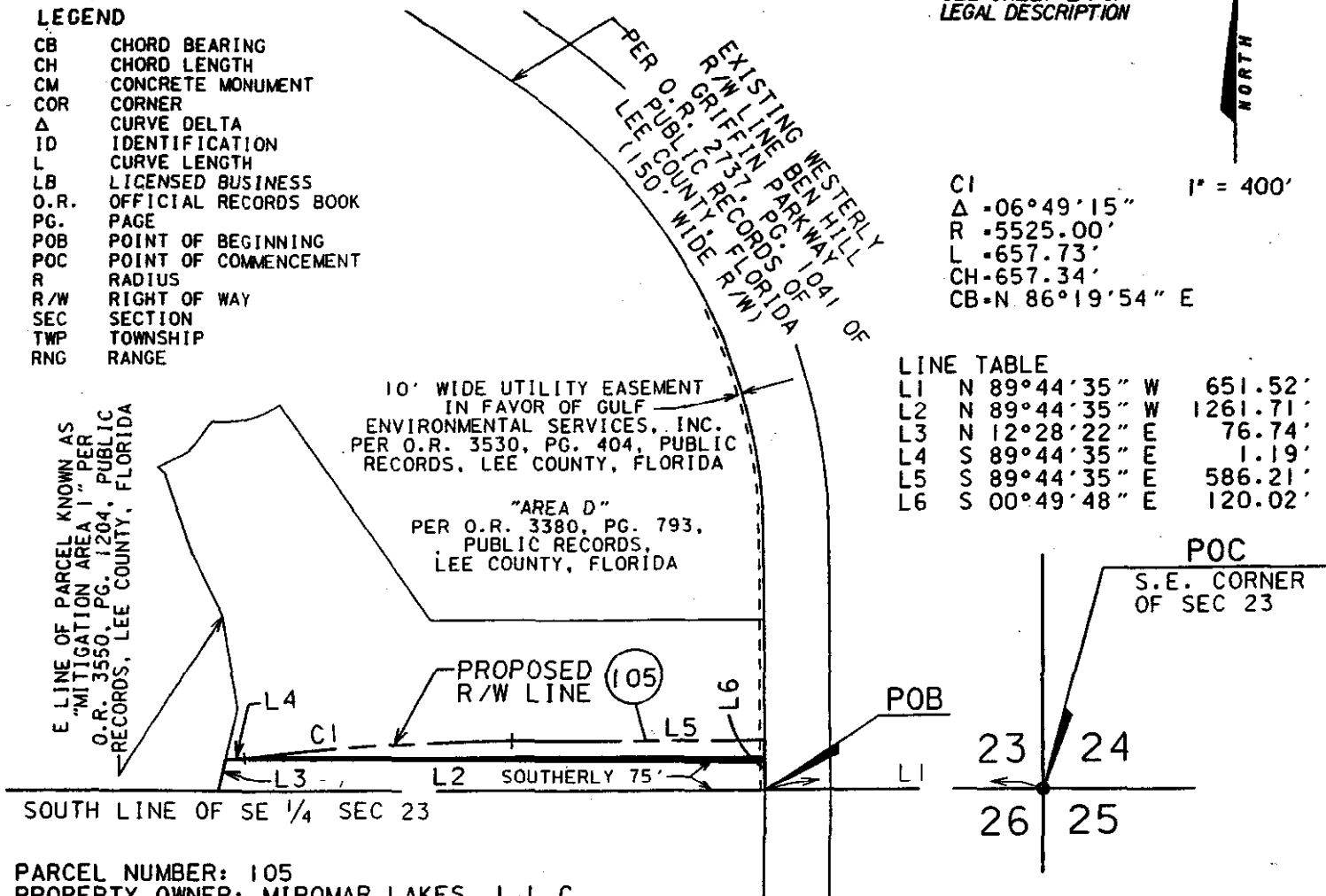
LEGEND

- CB CHORD BEARING
- CH CHORD LENGTH
- CM CONCRETE MONUMENT
- COR CORNER
- Δ CURVE DELTA
- ID IDENTIFICATION
- L CURVE LENGTH
- LB LICENSED BUSINESS
- O.R. OFFICIAL RECORDS BOOK
- PG. PAGE
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- R RADIUS
- R/W RIGHT OF WAY
- SEC SECTION
- TWP TOWNSHIP
- RNG RANGE

CI 1" = 400'
 Δ -06°49'15"
 R -5525.00'
 L -657.73'
 CH -657.34'
 CB -N 86°19'54" E

LINE TABLE

L1	N 89°44'35" W	651.52'
L2	N 89°44'35" W	1261.71'
L3	N 12°28'22" E	76.74'
L4	S 89°44'35" E	1.19'
L5	S 89°44'35" E	586.21'
L6	S 00°49'48" E	120.02'



PARCEL NUMBER: 105
 PROPERTY OWNER: MIROMAR LAKES, L.L.C.
 REFERENCE: OFFICAL RECORDS BOOK 3380, PAGE 793
 STRAP NUMBER: 23-46-25-00-00001.1040
 AREA OF TAKE:

2.157 ACRES, MORE OR LESS, IS WITHIN THE SOUTH 75'
 AND 1.043 ACRES, MORE OR LESS IS THE BALANCE.

AREA OF REMAINDER: 12.716 ACRES

Division of County Lands

Updated Ownership and Easement Search

Search No. 23-46-25-00-00001.1040

Date: May 10, 2005

Parcel: 105

Project: Estero Parkway, Project 5021

To: Teresa L. Mann, SR/WA
Property Acquisition Agent

From: Shelia A. Bedwell, CLS
Property Acquisition Assistant

STRAP: 23-46-25-00-00001.1040

Effective Date: April 26, 2005, at 5:00 p.m.

Subject Property: See attached legal description

Title to the subject property is vested in the following:

Miromar Lakes, L.L.C., a Florida limited liability company

by that certain instrument dated March 7, 2001, recorded March 21, 2001, in Official Records Book 3380, Page 793, Public Records of Lee County, Florida.

Easements:

1. Easement along a portion of proposed Treeline Avenue (now known as Ben Hill Griffin Parkway), as described in Official Record Book 2737, Page 1041, Public Records of Lee County, Florida.
2. Grant of Utility Easement to Gulf Environmental Services, Inc., recorded in Official Record Book 3530, Page 404, Public Records of Lee County, Florida.

Note (1): Resolution No. 85-9-130, creating the Corlico Parkway M.S.B.U., recorded in Official Record Book 1812, Page 3507, Public Records of Lee County, Florida.

NOTE(2): Resolution of the Zoning Board regarding Florida Rock Industries, Inc. Fort Myers Mine, recorded in Official Record Book 1844, Page 1272, Public Records of Lee County, Florida.

NOTE(3): Resolution 86-8-5, recreating the Corlico Parkway M.S.B.U., recorded in Official Record Book 1865, Page 2016, Public Records of Lee County, Florida.

NOTE(4): Declarations of Restrictions regarding the buffer area contiguous to Florida Gulf Coast University, recorded in Official Record Book 2497, Page 1574, Public Records of Lee County, Florida.

NOTE(5): Notice of Development Order Approval, recorded in Official Record Book 2689, Page 1983, Public Records of Lee County, Florida.

NOTE(6): Conditions and restrictions regarding subject property and other properties, as described in instrument recorded in Official Record Book 3165, Page 1800, Public Records of Lee County, Florida.

NOTE(7): Resolution 00-12-10, assessing property lying within the University Overlay Special Improvement District, recorded in Official Record Book 3342, Page 665, Public Records of Lee County, Florida.

NOTE(8): Miromar Lakes DRI Development Agreement, recorded in Official Record Book 3400, Page 306, Public Records of Lee County, Florida.

Tax Status: 2004 taxes have been paid in full.

(The end user of this report is responsible for verifying tax and/or assessment information.)

The Division of County Lands has made a diligent search of the Public Record. However, this report contains no guarantees nor warranty as to its accuracy.

SECTION 23, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

This sketch is NOT a survey.

SEE SHEET 2 FOR
LEGAL DESCRIPTION



LEGEND

- CB CHORD BEARING
- CH CHORD LENGTH
- CM CONCRETE MONUMENT
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- TWP TOWNSHIP
- RNG RANGE

CI 1" = 400'
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L6	S 00°49'48" E	120.02'

E LINE OF PARCEL KNOWN AS
"MITIGATION AREA 1" PER
O.R. 3550, PG. 1204, PUBLIC
RECORDS, LEE COUNTY, FLORIDA

10' WIDE UTILITY EASEMENT
IN FAVOR OF GULF
ENVIRONMENTAL SERVICES, INC.
PER O.R. 3530, PG. 404, PUBLIC
RECORDS, LEE COUNTY, FLORIDA

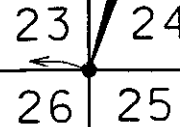
"AREA D"
PER O.R. 3380, PG. 793,
PUBLIC RECORDS,
LEE COUNTY, FLORIDA

PROPOSED
R/W LINE (105)

POB

POC

S.E. CORNER
OF SEC 23



SOUTH LINE OF SE 1/4 SEC 23

PARCEL NUMBER: 105
 PROPERTY OWNER: MIROMAR LAKES, L.L.C.
 REFERENCE: OFFICAL RECORDS BOOK 3380, PAGE 793
 STRAP NUMBER: 23-46-25-00-00001.1040
 AREA OF TAKE: 3.200 ACRES, MORE OR LESS OF WHICH
 2.157 ACRES, MORE OR LESS, IS WITHIN THE SOUTH 75'
 AND 1.043 ACRES, MORE OR LESS IS THE BALANCE.
 AREA OF REMAINDER: 12.716 ACRES


SURVEY NOTES

1. Reproductions of this sketch are not valid unless sealed with an embossed Surveyor's Seal.
2. The sketch shown hereon is for graphic representation only and does not represent a boundary survey.
3. Corner monuments were not set in conjunction with the preparation of this drawing.
4. Legal description prepared by PBS&J.
5. Bearings shown hereon are based on the South line of the SE 1/4 of Sec 23, Twp 46S, Rng 25E, being N 89°44'35' W.

SKETCH AND LEGAL DESCRIPTION
PARCEL 105 TAKE

JOB NO. 100806.08 0300	DATE 11-18-03
FIELD BOOK	REV. 7-06-04 REV PARENT TRACT
SCALE: 1" = 400'	REV. 11-22-04 REV O.R. OF EXISITNG R/W
DRAWN BY: RM	CHECKED BY: WHF

We hereby certify that the attached "Sketch and Legal Description" is true and correct to the best of our knowledge and belief as recently prepared under our direction and that this sketch meets the intent of the minimum technical standards for surveying pursuant to Section 472.027, Florida Statutes and Chapter 61G17-6, Florida Administrative Code.

PBS&J, LB 24

 ORRIS CLARK SARTOR

PROFESSIONAL LAND SURVEYOR •2685
 STATE OF FLORIDA



ENGINEERS, PLANNERS & SURVEYORS
 5300 WEST CYPRESS STREET, SUITE 300
 TAMPA, FLORIDA 33607
 (813)-282-7275

SHEET 1 OF 2

PARCEL NUMBER: 105
PROPERTY OWNER: MIROMAR LAKES, L.L.C.
REFERENCE: OFFICIAL RECORDS BOOK 3380, PAGE 793
STRAP NUMBER: 23-46-25-00-00001.1040
AREA OF TAKE: 3.200 ACRES
AREA OF REMAINDER: 12.716 ACRES

LEGAL DESCRIPTION

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Containing 3.200 acres, more or less.

The above described parcel is broken into two (2) component parts:

- (A) The Southerly 75.00 feet thereof which contains 2.157 acres, more or less.
- (B) The balance of said parcel (excluding the Southerly 75.00 feet thereof) which contains 1.043 acres, more or less.

DRAWN BY: RM

CHECKED BY: WHF



ENGINEERS, PLANNERS & SURVEYORS
5300 WEST CYPRESS STREET, SUITE 300
TAMPA, FLORIDA 33607
(813)-282-7275

SHEET 2 OF 2

SEE SHEET 1 FOR SKETCH

CERTIFICATE OF VALUE

Item/Segment: N/A
State Road: N/A
County: Lee
Managing District: N/A
FAP No.: N/A
Parcel No.: 105

I certify to the best of my knowledge and belief, that:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, unbiased, professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
5. My analyses, opinions, or conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice, and the provisions of Chapter 475, Part II, Florida Statutes.
6. I have made a personal inspection of the property that is the subject of this report and I have afforded the property owner the opportunity to accompany me at the time of the inspection. I have made a personal field inspection of the comparable sales relied upon in making this appraisal. The subject and comparable sales relied upon in making this appraisal was as represented by the photographs as contained in this appraisal.
7. No persons other than those named herein provided significant professional assistance to the person signing this report.
8. I understand that this appraisal is to be used in connection with the acquisition of right of way for the proposed Koreshan Boulevard Extension to be constructed by Lee County Florida.
9. This appraisal has been made in conformity with appropriate State laws, regulations, policies and procedures applicable to appraisal of right-of-way for transportation purposes; and to the best of my knowledge, no portion of the property value entered on this certificate consists of items which are non-compensable under the established law of the State of Florida.
10. I have not revealed the findings or results of this appraisal to anyone other than the proper officials of Lee County and I will not do so until authorized by Lee County officials or until I am required by due process of law, or until I am released from this obligation my having publicly testified as to such findings.
11. Regardless of any stated limited condition or assumption, I acknowledge that this appraisal report and all maps, data, summaries, charts and other exhibits collected or prepared under this agreement shall become the property of the County without restriction or limitation of their use.
12. Statements supplemental to this certification required by membership or candidacy in a professional appraisal organization are described on an addendum to this certificate and, by reference, are made a part hereof.

Based upon my independent appraisal and the exercise of my professional judgment, my opinion of the market value for the part taken, including net severance damages after special benefits, if any, of the property appraised as of the 2nd day of February, 2005, is: \$355,000.

Market Value should be allocated as follows:

Land: **\$ 355,000**

Land Area (Ac/SF): 1.043 Ac

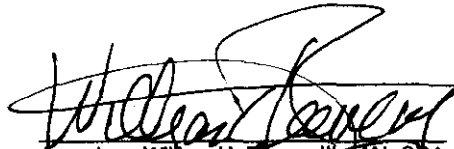
Improvements: **\$ 0**

Land Use: **Residential Development**

Net Damages &/or
Cost to Cure: **\$ n/a**

Total: **\$ 355,000**

02/07/2005
Date


Appraiser: William H. Reeve III, MAI, SRA
State Certified General Real Estate Appraiser RZ943

5-Year Sales History

STRAP No. 23-46-25-00-00001.1040

Parcel 105

Estero Parkway Extension Project No. 5021

Grantor	Grantee	Price	Date	Arms Length Y/N
Miromar Lakes, LLC, a Florida limited liability company	Miromar Lakes, LLC, a Florida limited liability company	\$100.00	3/21/2001	No **

****NOTE: The above conveyance is a Quit-Claim Deed to create separate tax parcels**